

REMARK

Claims 1-29 will be pending before the Examiner upon entry of the above amendments. Claims 10 and 14 have been amended, and new claims 26-29 have been added. Support for the amendments to the claims and the new claims can be found throughout the instant specification and claims as originally filed. No new matter has been introduced.

Restriction Requirement:

The Examiner has required an election under 35 U.S.C. § 121 of one of the following inventions:

- I. Claims 1-5, drawn to methods to detect a mutation in a FGF7 nucleic acid, classified in class 435, subclass 6.
- II. Claims 6-8, drawn to methods to detect a mutation in a FGF7 protein, classified in class 435, subclass 7.1.
- III. Claims 9-14, drawn to methods to diagnose hypophosphatemic condition using an agent to detect a change in the level of FGF7 protein, classified in class 435, subclass 7.2.
- IV. Claims 15-16, drawn to methods of treatment of a hypophosphatemic condition using an agent that decreases FGF7 mRNA levels, classified in class 514, subclass 44.
- V. Claims 15-16, drawn to methods of treatment of a hypophosphatemic condition using an agent that decreases FGF7 protein levels, classified in class 514, subclass 1, further classification cannot be determined without additional information regarding the structure of the agent.
- VI. Claims 15-16, drawn to methods of treatment of a hypophosphatemic condition using an agent that inhibits FGF7 protein activity, classified in class 424, subclass 130.1, further classification cannot be determined without additional information regarding the structure of the agent.
- VII. Claims 17-18, drawn to methods of treatment of a hyperphosphatemic condition using a nucleic acid encoding a FGF7 protein, classified in class 514, subclass 44.

- VIII. Claims 19-20 and 25, drawn to methods of treatment of a hyperphosphatemic condition using a FGF7 protein, classified in class 514, subclass 12.
- IX. Claims 21-22 and 25, drawn to methods of treatment of a hyperphosphatemic condition using an agent that increases FGF7 protein levels, classified in class 514, subclass 1, further classification cannot be determined without additional information regarding the structure of the agent.
- X. Claims 23 and 24, drawn to methods of treatment of a hyperphosphatemic condition using a population of cells, classified in class 424, subclass 93.1.

The Examiner states that the inventions are distinct each from the other.


In response, Applicants hereby elect the invention of group III, Claims 9-14, drawn to methods to diagnose hypophosphatemic condition using an agent to detect a change in the level of FGF7 protein, classified in class 435, subclass 7.2. New claims 26-29 also read on the elected invention.

CONCLUSION

Applicants respectfully request that the present remarks be made of record in the instant application. Applicants submit that this application is in condition for allowance and such action is respectfully requested. If any issues remain in connection herewith, the Examiner is respectfully invited to telephone the undersigned to discuss the same.

Respectfully submitted,

Date: February 10, 2006



Mei L. Benni

45,470
(Reg. No.)

CuraGen Corporation

322 East Main Street

Branford, CT 06405

Tel: (203) 871-4306

Fax: (203) 315-2177

CUSTOMER NUMBER: 37887